SERVED: May 24, 1995

NTSB Order No. EA-4366

UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD at its office in Washington, D.C. on the 19th day of May, 1995

DAVID R. HINSON, Administrator,

Federal Aviation Administration,

Complainant,

v.

RONALD B. ELLIOTT,

Respondent.

Docket SE-13703

ORDER DISMISSING APPEAL

On February 1, 1995, the respondent filed a timely notice of appeal from the January 24, 1995 written decision of the law judge. However, respondent did not file an appeal brief within

The law judge granted the Administrator's motion for summary judgment on a complaint seeking the revocation of respondent's commercial pilot and flight engineer certificates (Nos. 001524599 and 001895626, respectively) for his alleged violations of sections 61.15(a) and 63.12(a) of the Federal Aviation Regulations and Section 609(c)(1) of the Federal Aviation Act of 1958, as amended. The Administrator's charges stem from respondent's 1986 and 1991 federal court convictions for importation of marijuana and conspiracy to import marijuana and cocaine.

30 days after the law judge's decision.² His appeal is, therefore, subject to dismissal under Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).³

In the absence of good cause to excuse respondent's failure to perfect his appeal with a timely appeal brief, his appeal must be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, and HAMMERSCHMIDT, Member of the Board, concurred in the above order.

§ 821.48 Briefs and oral argument.

²Respondent's brief, postmarked February 27, includes a certificate attesting service on February 24. The due date for the brief was February 23.

³Section 821.48(a) provides as follows:

⁽a) Appeal briefs. Each appeal must be perfected within 50 days after service of an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

⁴While it is possible that respondent simply miscalculated the due date for the brief, our cases establish that such an error does not constitute good cause for an untimely filing.

See, e.g., Administrator v. Slay and Knowles, NTSB Order No. EA-3956 (1993), reconsideration denied, NTSB Order No. 4001 (1993).